

Message

From: Hurl, Kathy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F3B04131F1145FCB4CCF5B0A64C1AC4-KHURLD]
Sent: 8/26/2019 6:50:41 PM
To: Ziegler, Sam [Ziegler.Sam@epa.gov]; Goldmann, Elizabeth [Goldmann.Elizabeth@epa.gov]; McDavit, Michael W. [Mcdavit.Michael@epa.gov]; Wesson, Dolores [Wesson.Dolores@epa.gov]; Moffatt, Brett [Moffatt.Brett@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]
Subject: FW: what I sent to AZ, thanks Sam and Brett for your quick look.

From: Hurl, Kathy
Sent: Monday, August 26, 2019 2:50 PM
To: Benjamin Bryce <bryce.benjamin@azdeq.gov>
Cc: David Lelsz <lelsz.david@azdeq.gov>; Ziegler, Sam <Ziegler.Sam@epa.gov>
Subject: RE:

Hi Benjamin,

Welcome to 404(g)! Apologies for the delayed reply, I was digging out last week from being on vacation.

Yes, you are correct, EPA is working to clarify the CWA section 404(g) regulations. We held early input sessions with states and tribes last October-January where we asked states and tribes which sections of the regulations should be clarified. The revised regulations will also clarify which waters are assumable based upon recommendations from a Federal Advisory Committee. Trevor participated in both of these efforts. Issues we were asked to consider: include partial assumption, clarify enforcement and compliance requirements, clarifying the mitigation requirements (they were written without much consideration of states administering of the program) and how to ensure consistency with permit requirements.

The status right now is we are currently looking at the input and developing options for potential changes to the rule. The schedule is to propose the regulations in March of 2020 with finalization in 2021.

In answer to your question about how this may affect AZ's efforts to assume. Any rule changes will not be in effect until the rule is finalized. When EPA reviews AZ's program request for consistency, we will look at the existing regulations that are in effect at the time of approval.

For any changes to the regulations that are finalized post AZ assumption, AZ will need to look at their program, and ensure that AZ's program is consistent with the revised regulations. Any inconsistencies will need to be addressed and potential revisions to the states program approved by EPA. The state has one to two years to complete these confirming revisions depending upon whether or not legislation needs to be passed.

As EPA is planning to mostly clarify the existing regulations, AZ would potentially only need to make few (if any) revisions to its approved program to be consistent with the revised 404(g) regulations.

I hope this helps.

Kathy Hurl

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From: Benjamin Bryce <bryce.benjamin@azdeq.gov>
Sent: Tuesday, August 20, 2019 10:39 AM
To: Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Cc: David Lelsz <lelsz.david@azdeq.gov>
Subject:

Kathy:

Good morning. I do not think we have been introduced yet. I recently took over for Heidi Welborn working on Arizona's Section 404 Assumption. I am still getting up to speed on some of the issues, and I was wondering if you could help me get my head around some upcoming rule changes. As I understand it, some of the rules regarding 404 administration and state assumption are set to change. I want to make sure I know how that could affect Arizona's process. Would you be able to give me an idea of what those changes are and whether an NPRM has been published in the federal register? Are there any other upcoming rule changes I should be aware of?

Thanks,

Ben Bryce
Legal Specialist
Ph: 602-771-4689



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